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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/429,406	10/26/1999	JAMES M. BROWN	QCPA9900029	5890

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Qualcomm Incorporated  
Patents Department  
5775 Morehouse Drive  
San Diego, CA 92121-1714

EXAMINER
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WILSON, ROBERT W

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/429,406

Applicant(s)

BROWN ET AL.

Examiner

Robert W. Wilson

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 4/4/05.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-5 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-5 and 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**PHIRIN SAM****PRIMARY EXAMINER****Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

1.0 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2.0 Claims 3-4 & 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alfano (U.S. Patent No.; 6,094,423) in view of Comer.

Referring to claim 3, Alfano teaches: A method for sending voice data per col. 5 line 41 (time sensitive information ) between a mobile and a server (transmitter and receiver) via wireless per Fig 1. The method utilizes a hybrid combination of a transaction and connection protocols per col. 2 lines 64-67 (predefined data protocol). The reference teaches sending a maximum transfer unit (MTU) between the mobile and the server (transmitter and receiver). The MTU inherently has a minimum segment size (defining minimum segment). When a request is received for data which is larger than the MTU (predefined event), the transmitter segments the data into a first packet which is an MTU and a second packet which is smaller than the MTU but larger than the inherent minimum segment size of an MTU per col. 3 line 1-col. 4 line 34 and col. 5 line 45-col. 6 line 54.

Alfano does not expressly call for: negotiate of maximum segment size but teaches MTU

Comer teaches: negotiation of a maximum segment size which is utilized to determine the maximum transfer unit over bearer services per Pgs 102-104 & 223.

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the negotiation of maximum segment size of Comer to the method for utilizing an MTU of Alfano in order to be standards compliant.

Regarding claim 2, the combination of Alfano and Comer teaches: the method of claim 3

The combination of Alfano and Comer do not expressly call for: predefined event comprises the receipt of an acknowledgment message.

Comer teaches: An acknowledgment message and options fields are sent in the same message format per Pg 221.

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It would have been obvious to one of ordinary skill in the art at the time of the invention to add changing of a maximum segment for a maximum transfer unit which is in the same word format as an acknowledgment in order to be standards compliant.

Referring to claim 4, Alfano teaches: A Figure 6 (apparatus) for sending voice per col. 5 line 41 (time sensitive information) data between a mobile and a server (transmitter and receiver) via wireless per Fig 1. The apparatus utilizes a hybrid combination of a transaction and connection protocols per col. 2 lines 64-67 (predefined data protocol). Call processing (61 per Fig 1) (means for negotiation). ROM (60 per Fig 6) (memory). 66 per Fig 6 or queue for storing messages. Processor (Fig 6) or first processor.

The apparatus utilizes a hybrid combination of a transaction and connection protocols per col. 2 lines 64-67 (predefined data protocol). The reference teaches sending a maximum transfer unit (MTU) between the mobile and the server (transmitter and receiver). The MTU inherently has a minimum segment size (defining minimum segment). When a request is received for data which is larger than the MTU (predefined event), the transmitter segments the data into a first packet which is an MTU and a second packet which is smaller than the MTU but larger than the inherent minimum segment size of an MTU per col. 3 line 1-col. 4 line 34 and col. 5 line 45-col. 6 line 54.

Alfano does not expressly call for: negotiate of maximum segment size but teaches MTU

Comer teaches: negotiation of a maximum segment size which is utilized to determine the maximum transfer unit over bearer services per Pgs 102-104 & 223.

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the negotiation of maximum segment size of Comer to the apparatus for utilizing an MTU of Alfano in order to be standards compliant.

Referring to claim 13, It is within the level of one skilled in the art at the time of the invention to implement the limitations of claim 12 in software or computer program. It would have been obvious to one of ordinary skill in the art at the time of the invention to store the software on a computer readable medium in order to be executable on a processor.

Referring to claim 14, It is within the level of one skilled in the art at the time of the invention to implement the limitations of claim 12 in logic or means.

2.0 Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alfano (U.S.

Patent No.: 6,094,423) in view of Comer further in view of DeClerck (U.S. Patent No.: 5,515,375)

Referring to claim 5, The combination of Alfano and DeClerck teaches: the apparatus of claim 4,

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The combination of Alfano and DeClerck does not expressly call for: vocoder for generating data frames from said time-sensitive information but teaches voice data per col. 5 line 41

DeClerck teaches a vocoder for generating frames per Figs 2& 3.

It would have been obvious to add the vocoder of DeClerck to the apparatus which had digitized voice of the combination of Alfano and Comer in order to convert voice into digitized data which are frames.

### ***Claim Rejections - 35 USC § 102***

3.0 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4.0 Claim 13 is rejected under 35 U.S.C. 102(e) as being anticipated by Alfano (U.S. Patent No.; 6,094,423).

Referring to claim 13, Alfano teaches: A method for sending voice per col. 5 line 41 (time sensitive information) data between a mobile and a server (transmitter and receiver) via wireless per Fig 1. The method utilizes a hybrid combination of a transaction and connection protocols per col. 2 lines 64-67 (predefined data protocol). The reference teaches sending a maximum transfer unit (MTU) between the mobile and the server (transmitter and receiver). The MTU inherently has a minimum segment size (defining minimum segment). When a request is received for data which is larger than the MTU (predefined event), the transmitter segments the data into a first packet which is an MTU and a second packet which is smaller than the MTU but

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larger than the inherent minimum segment size of an MTU per col. 3 line 1-col. 4 line 34 and col. 5 line 45-col. 6 line 54.

***Response to Amendment***

5.0 Applicant's arguments with respect to claims 2-5 & 12-14 have been considered but are moot in view of the new ground(s) of rejection.

Please refer to the above rejection for details on how the arguments have been overcome.

6.0 Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

***Conclusion***

7.0 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Wilson whose telephone number is 571/272-3075. The examiner can normally be reached on M-F (8:00-4:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 571/272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert W Wilson  
Examiner  
Art Unit 2661

RWW  
5/18/05



**PHIRIN SAM**  
**PRIMARY EXAMINER**